



FmHA AN No. 2361 (1955)
September 12, 1991

SUBJECT: Instructions for Completion of Exhibit G and
Exhibit G-1 of FmHA Instruction 1955-A

TO: State Directors, District Directors
and County Supervisors

ATTN: Farmer Programs Chiefs

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance in the completion of Exhibit G and Exhibit G-1 of FmHA Instruction 1955-A. The intended outcome of this AN is to properly determine the maximum amount FmHA may bid at foreclosure sales and whether to accept a voluntary conveyance of farm property.

COMPARISON WITH PREVIOUS AN:

This AN replaces AN No. 2210 dated January 14, 1991.

IMPLEMENTATION RESPONSIBILITIES:

Attached are detailed line by line instructions for the completion of Exhibit G and Exhibit G-1 of FmHA Instruction 1955-A. The major changes in the completion of the worksheets are:

1. Two worksheets are now provided by FmHA Instruction 1955-A: one for establishing FmHA's bid at a foreclosure sale, and one for accepting a voluntary conveyance.
2. The reference to "capitalization value" under item 1 of both sets of instructions has been deleted. It is presumed that sales contracts executed before November 28, 1990, already have been processed, so that the reference to "capitalization value" is no longer needed.

EXPIRATION DATE: August 31, 1992

FILING INSTRUCTION:
Preceding
FmHA Instruction 1955-A



3. Item 2a of the instructions now states that rental income will only be considered as a form of income to be added to the market value of the property if it is clearly in the best financial interest of the Government to rent the property after acquisition. References to existing guidelines for making this decision are given. Documentation now must support inclusion of rental income. This item of the instructions formerly required inclusion of rental income when a lease or rental agreement was in effect and expected to continue after acquisition.

4. Under Item 3k of the instructions concerning hazardous waste clean-up costs, a reference has been added to FmHA AN No. 2177 (1955) for guidance in conducting on-site inspections.

5. Item 4 of the instructions for completing Exhibit G-1 provides formulas for implementing the policy that the Government will not enter a bid at foreclosure sale if net recovery is zero or less. If there would be a net recovery to the Government, then FmHA will enter a bid equal to the net recovery amount plus the amount of prior liens, UNLESS FmHA's gross investment is less. In such case, FmHA's bid will be the lower gross investment amount.

If you have any questions, please contact David R. Spillman of Farmer Programs Loan Servicing and Property Management Division at 475-4012.


LA VERNE AUSMAN
Administrator

Attachments

INSTRUCTION FOR THE COMPLETION OF EXHIBIT G
TO FmHA INSTRUCTION 1955-A

1. Market Value - Market value will be the recommended market value from Part 7 of FmHA Form 422-1, Appraisal Report - Farm Tract, or other acceptable appraisal report.

Estimate Holding Period in Years - The estimated holding period can vary widely from one property to another due to many factors such as location, physical condition, time required to resolve borrower's leaseback/buyback rights, etc. Normally, the estimated holding period will be taken from calculations prepared by each State, as required in Exhibit I of FmHA Instruction 1951-S for the average holding period. However, in situations where states have no suitable inventory properties, or have a very limited number of suitable properties for which the holding time is not representative, the average of the holding periods of surrounding states should be used. The reasons for using a holding period longer or shorter than the average for a specific property should be well documented in the running case record.

- 2a. Annual Rent - Rental income will only be considered if it is clearly in the best financial interest of the Government to rent the property after acquisition. Section 1955.66 of FmHA Instruction 1955-B and FmHA AN No. 2273(1955), "Leasing Farm Inventory Property," will be followed in making this decision. A copy of the "Inventory Property Determination Worksheet," the attachment to FmHA AN No. 2273 (1955), must be attached to Exhibit G to support a decision to include lease income.
- 2b. Annual Royalties - This is only applicable for cases when the property is earning royalties at the time the worksheet is prepared and is expected to continue after FmHA acquires title to the property.
- 2c. Other Annual Income - This will include any other reliable source of income generated by the property which is expected to continue after FmHA acquires title to the property.
- 2d. Annual Land Appreciation - This will be the same as determined by each State in accordance with Exhibit I of FmHA Instruction 1951-S.
- 2e. Value Gained Due to Restrictions - This is the value added to the property due to any proposed restrictions that will be placed on the use of the farm, such as wetland and floodplain conservation easements, once the property is in FmHA's inventory.

2f. Other - Any other income which is expected to continue after FmHA acquires title to the property.

"Total Additions" is the sum of lines 2a through 2f.

- 3a. Total Prior Lien Holder Indebtedness - This is the present unpaid principal and accrued interest owed the prior lien holders. The information should be obtained in writing from the prior lienholder as near to the date of preparation of this worksheet as possible. Adjustments for daily interest accrual should be made to the projected acquisition date.
- 3b. Other Acquisition Costs - The County Supervisor should evaluate each tract and include any cost that will be incurred to permit the Government to obtain clear title to the property such as:
1. The projected cost of the survey to identify conservation easements, etc.
 2. Administrative costs. These will be determined in accordance with Paragraph (A)(2) of Exhibit I of FmHA Instruction 1951-S.
 3. Past due taxes, closing costs, junior liens, or any assessments due, etc.
- 3c. Annual Taxes - Annual taxes will be taken from Part 1 (K) of Form FmHA 422-1.
- 3d. Annual Building Depreciation - Depreciation will be calculated from Part 2 of Form FmHA 422-1. For example contributory value divided by remaining useful life equals annual building depreciation.
- 3e. Annual Management Costs - These costs will be determined in accordance with Paragraph (A)(1) of Exhibit I of FmHA Instruction 1951-S.
- 3f. Total Essential Repairs to Secure and Resell - These costs will be determined by the County Supervisor in accordance with Section 1955.64 (a)(3) of FmHA Instruction 1955-B.
- 3g. Annual Land Depreciation - This information will be the same as determined by each State in accordance with Exhibit I of FmHA Instruction 1951-S.
- 3h. Total Anticipated Resale Expenses - This will be the same as determined for each County Office in accordance with Exhibit I of FmHA Instruction 1951-S.

- 3i. Total Interest Cost - The market value is taken from line 1 of this worksheet. The regular operating loan (OL) interest rate is the rate in effect when the worksheet is completed. The regular OL interest rate more nearly reflects the Government's costs of money.
- 3j. Value Loss due to Restrictions - This is the loss of value to the property due to restrictions that will be placed on the use of the property, such as wetland and floodplain conservation easements, once the property is in FmHA's inventory.
- 3k. Hazardous Waste Clean-up Costs - The County Supervisor will conduct a complete on-site inspection of the property, in accordance with FmHA AN No. 2177(1955), "Reporting Hazardous Substance Activity When Selling or Transferring Real Property," to identify any hazardous waste located on the property (i.e., stored chemicals, trash dumps, under ground storage tanks, etc.). If any hazardous wastes are identified, the County Supervisor will contact the State Environmental Coordinator for assistance in determining any estimated clean-up cost. These are costs not normally reflected in the recommended market value. If they are reflected in the recommended market value, they will not be counted as expenses under this item.

"Total Deductions" is the sum of lines 3a through 3k.

"Recovery Value End of Holding Period" equals the Market Value plus Total Additions less Total Deductions.

The completed and signed copy of Exhibit G will be filed in the borrower's case file.

If there is no recovery value for the Government, FmHA WILL NOT accept the voluntary conveyance.

INSTRUCTION FOR THE COMPLETION OF EXHIBIT G-1
TO FmHA INSTRUCTION 1955-A

1. Market Value - Market value will be the recommended market value from Part 7 of FmHA Form 422-1, Appraisal Report - Farm Tract, or other acceptable appraisal report.

Estimate Holding Period in Years - The estimated holding period can vary widely from one property to another due to many factors such as location, physical condition, time required to resolve borrower's leaseback/buyback rights, etc. Normally, the estimated holding period will be taken from calculations prepared by each State, as required in Exhibit I of FmHA Instruction 1951-S for the average holding period. However, in situations where states have no suitable inventory properties, or have a very limited number of suitable properties for which the holding time is not representative, the average of the holding periods of surrounding states should be used. The reasons for using a holding period longer or shorter than the average for a specific property should be well documented in the running case record.

- 2a. Annual Rent - Rental income will only be considered if it is clearly in the best financial interest of the Government to rent the property after acquisition. Section 1955.66 of FmHA Instruction 1955-B and FmHA AN No. 2273(1955), "Leasing Farm Inventory Property," will be followed in making this decision. A copy of the "Inventory Property Determination Worksheet," the attachment to FmHA AN No. 2273 (1955), must be attached to Exhibit G-1 to support a decision to include lease income.
- 2b. Annual Royalties - This is only applicable for cases when the property is earning royalties at the time the worksheet is prepared and is expected to continue after FmHA acquires title to the property.
- 2c. Other Annual Income - This will include any other reliable source of income generated by the property which is expected to continue after FmHA acquires title to the property.
- 2d. Annual Land Appreciation - This will be the same as determined by each State in accordance with Exhibit I of FmHA Instruction 1951-S.
- 2e. Value Gained Due to Restrictions - This is the value added to the property due to any proposed restrictions that will be placed on the use of the farm, such as wetland and floodplain conservation easements, once the property is in FmHA's inventory.

2f. Other - Any other income which is expected to continue after FmHA acquires title to the property.

"Total Additions" is the sum of lines 2a through 2f.

- 3a. Total Prior Lien Holder Indebtedness - This is the present unpaid principal and accrued interest owed the prior lien holders. The information should be obtained in writing from the prior lienholder as near to the date of preparation of this worksheet as possible. Adjustments for daily interest accrual should be made to the projected acquisition date.
- 3b. Other Acquisition Costs - The County Supervisor should evaluate each tract and include any cost that will be incurred to permit the Government to obtain clear title to the property such as:
1. The projected cost of the survey to identify conservation easements, etc.
 2. Administrative costs. These will be determined in accordance with Paragraph (A)(2) of Exhibit I of FmHA Instruction 1951-S.
 3. Past due taxes, closing costs, or any assessments due, etc.
- 3c. Annual Taxes - Annual taxes will be taken from Part 1 (K) of Form FmHA 422-1.
- 3d. Annual Building Depreciation - Depreciation will be calculated from Part 2 of Form FmHA 422-1. For example contributory value divided by remaining useful life equals annual building depreciation.
- 3e. Annual Management Costs - These costs will be determined in accordance with Paragraph (A)(1) of Exhibit I of FmHA Instruction 1951-S.
- 3f. Total Essential Repairs to Secure and Resell - These costs will be determined by the County Supervisor in accordance with Section 1955.64 (a)(3) of FmHA Instruction 1955-B.
- 3g. Annual Land Depreciation - This information will be the same as determined by each State in accordance with Exhibit I of FmHA Instruction 1951-S.
- 3h. Total Anticipated Resale Expenses - This will be the same as determined for each County Office in accordance with Exhibit I of FmHA Instruction 1951-S.

- 3i. Total Interest Cost - The market value is taken from line 1 of this work sheet. The regular operating loan (OL) interest rate is the rate in effect when the work sheet is completed. The regular OL interest rate more nearly reflects the Government's costs of money.
- 3j. Value Loss due to Restrictions - This is the loss of value to the property due to restrictions that will be placed on the use of the property, such as wetland and floodplain conservation easements, once the property is in FmHA's inventory.
- 3k. Hazardous Waste Clean-up Costs - The County Supervisor will conduct a complete on-site inspection of the property, in accordance with FmHA AN No. 2177(1955), "Reporting Hazardous Substance Activity When Selling or Transferring Real Property," to identify any hazardous waste located on the property (i.e., stored chemicals, trash dumps, under ground storage tanks, etc.). If any hazardous wastes are identified, the County Supervisor will contact the State Environmental Coordinator for assistance in determining any estimated clean-up cost. These are costs not normally reflected in the recommended market value. If they are reflected in the recommended market value, they will not be counted as expenses under this item.

"Total Deductions" is the sum of lines 3a through 3k.

- 4a. Market Value plus Total Additions less Total Deductions equals Total anticipated recovery to the Government.
- 4b. Unpaid FmHA Balance on Secured Debt plus Prior Liens equals "Total" outstanding debt against the property.

If 4a equals 0 or is negative, the Government WILL NOT enter a bid at the sale.

If 4a is positive, the prior liens (3a) will be added to 4a to establish the amount of the Government's bid. However, the amount of the Government's bid will never exceed 4b. —